CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

March 8, 1999

S. 494
Nursing Home Residential Security Act of 1999

As ordered reported by the Senate Committee on Finance on March 4,1999

CBO estimates that enactment of S. 494 would not affect federal spending. Because the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply. S. 494 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA) and would not affect the budgets of state, local, or tribal governments. The bill does contain a private-sector mandate on nursing facilities currently participating in the Medicaid program, but the cost of that mandate to the affected facilities would be small.

S. 494 would amend Medicaid law to prohibit transfers or discharges of residents of nursing facilities as a result of a facility's voluntary withdrawal from participation in the Medicaid program. The bill would not affect federal Medicaid spending because nursing facility residents would be likely to continue to receive Medicaid benefits if a facility withdraws from the program under both current law and the bill's new requirements.

Current Medicaid law includes a set of requirements regarding residents' transfer and discharge rights for nursing facilities that participate in the Medicaid program and establishes mechanisms that states and the federal government may use to punish violation of those requirements. The bill would add a new requirement that a participating facility agree that in the event that it decides to withdraw from the Medicaid program in the future, it would continue to care for residents who were in its care at the time. In that instance, the facility would be deemed to be participating in the Medicaid program and would continue to receive payments for residents who were in its care at the time of withdrawal until the legal discharge or transfer of those residents. The requirement would apply only to facilities that continue to provide nursing facility services.

CBO estimates that this bill would not affect federal Medicaid spending. Because nursing facilities are highly dependent on Medicaid revenue, it is unlikely that there would be a large-scale withdrawal from Medicaid program participation under current law. Furthermore, in many states, withdrawal from the Medicaid program carries risk of civil monetary penalties or other sanction. For instance, some states require Medicaid participation as a condition of licensure. Even in the rare instance where a facility does withdraw from the program under current law, the state or the Health Care Financing Administration would likely find new placement for Medicaid-eligible residents. As national occupancy rates in nursing facilities are about 86 percent, it would be unlikely that a new placement would not be found.

CBO finds that the new requirements of S. 494 would be considered a private-sector mandate under UMRA. For facilities now participating in Medicaid that chose to leave the program, the requirement to continue to care for current residents would be a new duty they could not avoid, even though it was not part of their agreement when they joined the program. Because few nursing facilities leave the program, however, and because those who did choose to leave would continue to receive Medicaid payments, the aggregate cost to affected facilities of this mandate would be small.

The CBO staff contacts for the federal costs of this estimate are Jeanne De Sa and Dorothy Rosenbaum. Bruce Vavrichek is the staff contact for private sector mandate costs. This estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.